

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9254 OF 2005

The Dadar Co-op. Hsg. Soc.Ltd. Petitioner

versus

The Employee State Insurance
Corpn. Local Office & others Respondents

Mr.D.N.Hungund for petitioner.

Mr.A.J.Jadhav with Harsha SameI for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd January 2006

PC :

1. Heard learned advocates for parties. With their assistance I have perused the order passed by the Lower Appellate Court on the application of the petitioner society for condoning the delay in filing a first appeal.

2. In my view, considering the fact that the petitioner is a co-operative housing society and that a collective decision has to be taken and that entailed in the delay, the Appellate Court ought to have applied liberal principles while

condoning the delay in filing first appeal. Moreso, when the petitioner co-operative housing society has brought materials to show that after the Trial Court's decree dismissing their suit, the Managing Committee met and resolved to file an appeal. Thereafter, procedural formalities took some time. There is, thus, no lack of bona fides, inaction or negligence on the part of the petitioner.

3. The order of Lower Appellate Court refusing to condone the delay is set aside. Delay in filing the first appeal is condoned. However, the petitioner society to pay costs quantified at Rs.2,000/- to the Corporation. Petition disposed of.

(S.C.DHARMADHIKARI, J.)